

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

IN RE:) CASE NO: 23-41539
PHILLIP W COLBERT) Chapter 13
ASHLIE M COLBERT)
) Trustee's Objection to Confirmation
) Original Confirmation Hearing set for:
Debtors) June 22, 2023 10:00 am

TRUSTEE'S OBJECTION TO CONFIRMATION OF 1ST AMENDED PLAN

COMES NOW Diana S. Daugherty, Standing Chapter 13 Trustee, and for her objection to confirmation states as follows:

1. The plan does not represent Debtors' best efforts to repay creditors, 11 U.S.C. § 1325(b), in that:
Debtors are above median such that the 122C-2 determines how much the plan should guarantee to unsecured creditors. However, debtors' 122C-2 contain errors such that debtors' guarantee to unsecured creditors is \$80,383.20: A) On line 29, debtors claim a deduction of \$291.40 for education expenses for dependent children under 18 to attend private or public elementary or secondary school. However, debtors testified at the section 341 meeting that these expenses were actually music lessons for their two sons. Further, the expenses for school must be documented and accompanied by a an explanation of why the amount is both reasonable and necessary. B) On line 33d, debtors claim a deduction of \$123.32 for their two cars. These expenses have already been accounted for on lines 13b, 13e, 33b and 33c. Debtors' result for monthly disposable income on line 45 is \$925.00. Adding in \$291.40 from line 29, and \$123.32 from line 33d equals \$1,339.72. Multiplied by 60, debtors must guarantee \$80,383.32 to their unsecured creditors. With the correct amount guaranteed, debtors' plan is approximately \$73,874 short of feasibility.
2. Debtors inexplicably omitted payment of their rental property previously addressed in paragraph 3.3(C). This debt is not addressed in the amended plan.

WHEREFORE the Trustee prays the Court enter its order denying confirmation of the proposed plan.

Dated: June 28, 2023

OBJCONFAF--KR

/s/ Kathy Reichbach
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AMENDED PLAN**

06/28/2023

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed electronically on June 28, 2023, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List.

I certify that a true and correct copy of the foregoing document was filed electronically with the United States Bankruptcy Court, and has been served by Regular United States Mail Service, first class, postage fully pre-paid, addressed to those parties listed on the Court's Manual Notice List and listed below on June 28, 2023.

PHILLIP W COLBERT
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/s/ Kathy Reichbach
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